

AMENDED IN SENATE FEBRUARY 13, 2012

**SENATE BILL**

**No. 963**

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**Introduced by Senator Cannella**  
(Principal coauthor: Assembly Member Olsen)  
(Coauthors: Senators Berryhill and La Malfa)

January 11, 2012

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An act to amend Sections 25740 and 25741 of, and to repeal Section 25740.5 of, the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.14, 399.15, and 399.30 of, and repeal Section 399.12.5 Sections 399.20 and 399.22 of, and to amend and renumber Section 387.6 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as amended, Cannella. Renewable energy resources: *local publicly owned electric utilities.*

*Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. Existing law requires the local publicly owned electric utility to make the tariff available to owners and operators of an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the utility meets its proportionate share of a statewide cap of 750 megawatts cumulative rated generation capacity served under the feed-in tariffs adopted pursuant to the above-described requirements. Existing law provides that the electricity purchased from an electric generation facility counts toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.*

*This bill would move these requirements to that portion of the Public Utilities Code concerning the California Renewables Portfolio Standard Program. The bill would make other technical and nonsubstantive changes.*

~~Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The existing Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. The specified minimum quantities of electricity products are based upon a percentage of the utility's total retail sales of electricity in California. Pursuant to the RPS program, certain small, conduit, and repowered hydroelectric generation facilities are eligible renewable energy resources.~~

~~This bill would repeal those provisions of the RPS program making small, conduit, and repowered hydroelectric generation facilities eligible renewable energy resources. The bill would revise the RPS program so that the specified minimum quantities of electricity products required to be procured are based upon a percentage of the utility's net program retail sales of electricity in California. The bill would define "net program retail sales" of electricity as being the total retail sales of electricity by the retail seller or local publicly owned electric utility within California, minus those retail sales where the load was met by generation from a hydroelectric generation facility. The bill would make other conforming changes.~~

~~The Renewable Energy Resources Program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020.~~

~~This bill would state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 33% of net program retail sales of electricity in California per year by December 31, 2020.~~

~~Existing law requires the State Energy Resources Conservation and Development Commission, by June 30, 2011, to study and provide a report to the Legislature that analyzes run-of-river hydroelectric~~

~~generating facilities, as defined, in British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities for purposes of the Renewable Energy Resources Program administered by the Energy Commission or eligible renewable energy resources for purposes of the RPS program.~~

~~This bill would repeal that requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 387.6 of the Public Utilities Code is  
2     amended and renumbered to read:  
3     ~~387.6.~~  
4     399.32. (a) It is the policy of the state and the intent of the  
5     Legislature to encourage electrical generation from eligible  
6     renewable energy resources.  
7     (b) As used in this section, “electric generation facility” means  
8     an electric generation facility located within the service territory  
9     of, and developed to sell electricity to, a local publicly owned  
10    electric utility, and that meets all of the following criteria:  
11    (1) Has an effective capacity of not more than three megawatts.  
12    (2) Is interconnected and operates in parallel with the electrical  
13    transmission and distribution grid.  
14    (3) Is strategically located and interconnected to the electrical  
15    transmission and distribution grid in a manner that optimizes the  
16    deliverability of electricity generated at the facility to load centers.  
17    (4) Is an eligible renewable energy resource pursuant to ~~Article~~  
18    ~~16 (commencing with Section 399.11)~~ *this article*.  
19    (c) A local publicly owned electric utility that sells electricity  
20    at retail to 75,000 or more customers shall adopt a standard tariff  
21    for electricity purchased from an electric generation facility.  
22    (d) The governing board of the local publicly owned electric  
23    utility shall ensure that the tariff adopted pursuant to subdivision  
24    (c) reflects the value of every kilowatthour of electricity generated  
25    on a time-of-delivery basis. The governing board may adjust this  
26    value based on the other attributes of renewable generation. The  
27    governing board shall ensure, with respect to rates and charges,  
28    that ratepayers that do not receive service pursuant to the tariff are

1 indifferent to whether a ratepayer with an electric generation  
2 facility receives service pursuant to the tariff.

3 (e) A local publicly owned electric utility that sells electricity  
4 at retail to 75,000 or more customers shall make the tariff available  
5 to the owner or operator of an electric generation facility within  
6 the service territory of the utility, upon request, on a  
7 first-come-first-served basis, until the utility meets its proportionate  
8 share of a statewide cap of 750 megawatts cumulative rated  
9 generation capacity served under this section and Section 399.20.  
10 The proportionate share shall be calculated based on the ratio of  
11 the utility's peak demand compared to the total statewide peak  
12 demand.

13 (f) The local publicly owned electric utility may make the terms  
14 of the tariff available to owners and operators of an electric  
15 generation facility in the form of a standard contract.

16 (g) Every kilowatthour of electricity purchased from an electric  
17 generation facility shall count toward meeting the local publicly  
18 owned electric utility's renewables portfolio standard annual  
19 procurement targets for purposes of Section ~~387~~ 399.30.

20 (h) (1) A local publicly owned electric utility may establish  
21 performance standards for any electric generation facility that has  
22 a capacity greater than one megawatt to ensure that those facilities  
23 are constructed, operated, and maintained to generate the expected  
24 annual net production of electricity and do not impact system  
25 reliability.

26 (2) A local publicly owned electric utility may reduce the three  
27 megawatt capacity limitation of paragraph (1) of subdivision (b)  
28 if the utility finds that a reduced capacity limitation is necessary.

29 (i) Within 10 days of receipt of a request for a tariff pursuant  
30 to this section from an owner or operator of an electric generation  
31 facility, the local publicly owned electric utility that receives the  
32 request shall post a copy of the request on its Internet Web site.  
33 The information posted on the Internet Web site shall include the  
34 name of the city in which the facility is located, but information  
35 that is proprietary and confidential, including, but not limited to,  
36 address information beyond the name of the city in which the  
37 facility is located, shall be redacted.

38 (j) A local publicly owned electric utility may deny a tariff  
39 request pursuant to this section if the local publicly owned electric  
40 utility makes any of the following findings:

1 (1) The electric generation facility does not meet the  
2 requirements of this section.

3 (2) The transmission or distribution grid that would serve as the  
4 point of interconnection is inadequate.

5 (3) The electric generation facility does not meet all applicable  
6 state and local laws and building standards, and utility  
7 interconnection requirements.

8 (4) The aggregate of all electric generating facilities on a  
9 distribution circuit would adversely impact utility operation and  
10 load restoration efforts of the distribution system.

11 (k) Upon receiving a notice of denial from a local publicly  
12 owned electric utility, the owner or operator of the electric  
13 generation facility denied a tariff pursuant to this section shall have  
14 the right to appeal that decision to the governing board of the local  
15 publicly owned electric utility.

16 (l) In order to ensure the safety and reliability of electric  
17 generation facilities, the owner of an electric generation facility  
18 receiving a tariff pursuant to this section shall provide an inspection  
19 and maintenance report to the local publicly owned electric utility  
20 at least once every other year. The inspection and maintenance  
21 report shall be prepared at the owner's or operator's expense by a  
22 ~~California-licensed~~ *California-licensed* contractor who is not the  
23 owner or operator of the electric generation facility. A ~~California~~  
24 ~~licensed~~ *California-licensed* electrician shall perform the inspection  
25 of the electrical portion of the generation facility.

26 (m) The contract between the electric generation facility  
27 receiving the tariff and the local publicly owned electric utility  
28 shall contain provisions that ensure that construction of the electric  
29 generating facility complies with all applicable state and local laws  
30 and building standards, and utility interconnection requirements.

31 (n) (1) All construction and installation of facilities of the local  
32 publicly owned electric utility, including at the point of the output  
33 meter or at the transmission or distribution grid, shall only be  
34 performed by that local publicly owned electric utility.

35 (2) All interconnection facilities installed on the local publicly  
36 owned electric utility's side of the transfer point for electricity  
37 between the local publicly owned electric utility and the electrical  
38 conductors of the electric generation facility shall be owned,  
39 operated, and maintained only by the local publicly owned electric  
40 utility. The ownership, installation, operation, reading, and testing

1 of revenue metering equipment for electric generating facilities  
2 shall ~~only~~ be performed *only* by the local publicly owned electric  
3 utility.

4 *SEC. 2. Section 399.20 of the Public Utilities Code is amended*  
5 *to read:*

6 399.20. (a) It is the policy of this state and the intent of the  
7 Legislature to encourage electrical generation from eligible  
8 renewable energy resources.

9 (b) As used in this section, “electric generation facility” means  
10 an electric generation facility located within the service territory  
11 of, and developed to sell electricity to, an electrical corporation  
12 that meets all of the following criteria:

13 (1) Has an effective capacity of not more than three megawatts.

14 (2) Is interconnected and operates in parallel with the electrical  
15 transmission and distribution grid.

16 (3) Is strategically located and interconnected to the electrical  
17 transmission and distribution grid in a manner that optimizes the  
18 deliverability of electricity generated at the facility to load centers.

19 (4) Is an eligible renewable energy resource.

20 (c) Every electrical corporation shall file with the commission  
21 a standard tariff for electricity purchased from an electric  
22 generation facility. The commission may modify or adjust the  
23 requirements of this section for any electrical corporation with less  
24 than 100,000 service connections, as individual circumstances  
25 merit.

26 (d) (1) The tariff shall provide for payment for every  
27 kilowatthour of electricity purchased from an electric generation  
28 facility for a period of 10, 15, or 20 years, as authorized by the  
29 commission. The payment shall be the market price determined  
30 by the commission pursuant to paragraph (2) and shall include all  
31 current and anticipated environmental compliance costs, including,  
32 but not limited to, mitigation of emissions of greenhouse gases  
33 and air pollution offsets associated with the operation of new  
34 generating facilities in the local air pollution control or air quality  
35 management district where the electric generation facility is  
36 located.

37 (2) The commission shall establish a methodology to determine  
38 the market price of electricity for terms corresponding to the length  
39 of contracts with an electric generation facility, in consideration  
40 of the following:

1 (A) The long-term market price of electricity for fixed price  
2 contracts, determined pursuant to an electrical corporation's general  
3 procurement activities as authorized by the commission.

4 (B) The long-term ownership, operating, and fixed-price fuel  
5 costs associated with fixed-price electricity from new generating  
6 facilities.

7 (C) The value of different electricity products including  
8 baseload, peaking, and as-available electricity.

9 (3) The commission may adjust the payment rate to reflect the  
10 value of every kilowatthour of electricity generated on a  
11 time-of-delivery basis.

12 (4) The commission shall ensure, with respect to rates and  
13 charges, that ratepayers that do not receive service pursuant to the  
14 tariff are indifferent to whether a ratepayer with an electric  
15 generation facility receives service pursuant to the tariff.

16 (e) An electrical corporation shall provide expedited  
17 interconnection procedures to an electric generation facility located  
18 on a distribution circuit that generates electricity at a time and in  
19 a manner so as to offset the peak demand on the distribution circuit,  
20 if the electrical corporation determines that the electric generation  
21 facility will not adversely affect the distribution grid. The  
22 commission shall consider and may establish a value for an electric  
23 generation facility located on a distribution circuit that generates  
24 electricity at a time and in a manner so as to offset the peak demand  
25 on the distribution circuit.

26 (f) An electrical corporation shall make the tariff available to  
27 the owner or operator of an electric generation facility within the  
28 service territory of the electrical corporation, upon request, on a  
29 first-come-first-served basis, until the electrical corporation meets  
30 its proportionate share of a statewide cap of 750 megawatts  
31 cumulative rated generation capacity served under this section and  
32 Section 387.6 399.32. The proportionate share shall be calculated  
33 based on the ratio of the electrical corporation's peak demand  
34 compared to the total statewide peak demand.

35 (g) The electrical corporation may make the terms of the tariff  
36 available to owners and operators of an electric generation facility  
37 in the form of a standard contract subject to commission approval.

38 (h) Every kilowatthour of electricity purchased from an electric  
39 generation facility shall count toward meeting the electrical  
40 corporation's renewables portfolio standard annual procurement

1 targets for purposes of paragraph (1) of subdivision (b) of Section  
2 399.15.

3 (i) The physical generating capacity of an electric generation  
4 facility shall count toward the electrical corporation's resource  
5 adequacy requirement for purposes of Section 380.

6 (j) (1) The commission shall establish performance standards  
7 for any electric generation facility that has a capacity greater than  
8 one megawatt to ensure that those facilities are constructed,  
9 operated, and maintained to generate the expected annual net  
10 production of electricity and do not impact system reliability.

11 (2) The commission may reduce the three megawatt capacity  
12 limitation of paragraph (1) of subdivision (b) if the commission  
13 finds that a reduced capacity limitation is necessary to maintain  
14 system reliability within that electrical corporation's service  
15 territory.

16 (k) (1) Any owner or operator of an electric generation facility  
17 that received ratepayer-funded incentives in accordance with  
18 Section 379.6 of this code, or with Section 25782 of the Public  
19 Resources Code, and participated in a net metering program  
20 pursuant to Sections 2827, 2827.9, and 2827.10 of this code prior  
21 to January 1, 2010, shall be eligible for a tariff or standard contract  
22 filed by an electrical corporation pursuant to this section.

23 (2) In establishing the tariffs or standard contracts pursuant to  
24 this section, the commission shall consider ratepayer-funded  
25 incentive payments previously received by the generation facility  
26 pursuant to Section 379.6 of this code or Section 25782 of the  
27 Public Resources Code. The commission shall require  
28 reimbursement of any funds received from these incentive  
29 programs to an electric generation facility, in order for that facility  
30 to be eligible for a tariff or standard contract filed by an electrical  
31 corporation pursuant to this section, unless the commission  
32 determines ratepayers have received sufficient value from the  
33 incentives provided to the facility based on how long the project  
34 has been in operation and the amount of renewable electricity  
35 previously generated by the facility.

36 (3) A customer that receives service under a tariff or contract  
37 approved by the commission pursuant to this section is not eligible  
38 to participate in any net metering program.

39 (l) An owner or operator of an electric generation facility  
40 electing to receive service under a tariff or contract approved by



1 the commission shall continue to receive service under the tariff  
2 or contract until either of the following occurs:

3 (1) The owner or operator of an electric generation facility no  
4 longer meets the eligibility requirements for receiving service  
5 pursuant to the tariff or contract.

6 (2) The period of service established by the commission pursuant  
7 to subdivision (d) is completed.

8 (m) Within 10 days of receipt of a request for a tariff pursuant  
9 to this section from an owner or operator of an electric generation  
10 facility, the electrical corporation that receives the request shall  
11 post a copy of the request on its Internet Web site. The information  
12 posted on the Internet Web site shall include the name of the city  
13 in which the facility is located, but information that is proprietary  
14 and confidential, including, but not limited to, address information  
15 beyond the name of the city in which the facility is located, shall  
16 be redacted.

17 (n) An electrical corporation may deny a tariff request pursuant  
18 to this section if the electrical corporation makes any of the  
19 following findings:

20 (1) The electric generation facility does not meet the  
21 requirements of this section.

22 (2) The transmission or distribution grid that would serve as the  
23 point of interconnection is inadequate.

24 (3) The electric generation facility does not meet all applicable  
25 state and local laws and building standards and utility  
26 interconnection requirements.

27 (4) The aggregate of all electric generating facilities on a  
28 distribution circuit would adversely impact utility operation and  
29 load restoration efforts of the distribution system.

30 (o) Upon receiving a notice of denial from an electrical  
31 corporation, the owner or operator of the electric generation facility  
32 denied a tariff pursuant to this section shall have the right to appeal  
33 that decision to the commission.

34 (p) In order to ensure the safety and reliability of electric  
35 generation facilities, the owner of an electric generation facility  
36 receiving a tariff pursuant to this section shall provide an inspection  
37 and maintenance report to the electrical corporation at least once  
38 every other year. The inspection and maintenance report shall be  
39 prepared at the owner's or operator's expense by a  
40 California-licensed contractor who is not the owner or operator of

1 the electric generation facility. A California-licensed electrician  
2 shall perform the inspection of the electrical portion of the  
3 generation facility.

4 (q) The contract between the electric generation facility  
5 receiving the tariff and the electrical corporation shall contain  
6 provisions that ensure that construction of the electric generating  
7 facility complies with all applicable state and local laws and  
8 building standards, and utility interconnection requirements.

9 (r) (1) All construction and installation of facilities of the  
10 electrical corporation, including at the point of the output meter  
11 or at the transmission or distribution grid, shall be performed only  
12 by that electrical corporation.

13 (2) All interconnection facilities installed on the electrical  
14 corporation's side of the transfer point for electricity between the  
15 electrical corporation and the electrical conductors of the electric  
16 generation facility shall be owned, operated, and maintained only  
17 by the electrical corporation. The ownership, installation, operation,  
18 reading, and testing of revenue metering equipment for electric  
19 generating facilities shall only be performed by the electrical  
20 corporation.

21 *SEC. 3. Section 399.22 of the Public Utilities Code is amended*  
22 *to read:*

23 399.22. (a) For purposes of this section, "state agency" means  
24 any state agency, board, department, or commission, including the  
25 entities specified in subdivision (a) of Section 15814.12 of the  
26 Government Code.

27 (b) A state agency generating electricity from an electric  
28 generation facility, as defined in Section ~~387.6~~ or 399.20 or 399.32,  
29 that operates under a tariff adopted pursuant to either of those  
30 sections, and that is owned by, operated by, or on property under  
31 the control of, the state agency shall take the total annual amount  
32 of kilowatthours exported to the grid into consideration when  
33 determining whether the state agency has achieved the policy goals  
34 and objectives established by law for the state agency.

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, January 11, 2012. (JR11)**

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